

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)
TUESDAY, THE TWENTY NINTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION No. 6678 of 2005

Between:

1. M/s. Srisaila Mallikarjuna Dall Producers, rep. by its

Managing Partner, G. Madhusudhan Rao, S/o. Chenchaiyah,

R/o. Podili, Prakasam District.

2. G. Madhusudhan Rao, Managing Partner, M/s. Srisaila

Mallikarjuna Dall Producers,

S/o. Chenchaiyah, R/o. Podili, Prakasam District.

..... PETITIONERS

AND

1. The Regional Provident Fund Commissioner, Sub Regional

Officer, 3rd Lane, Krishna Nagar, Guntur District.

2. The Assistant Provident Fund Commissioner, Sub Regional

Office, Guntur.

3. The Enforcement Officer, Employment Provident Fund

Organisation, Ongole, Prakasam District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction more particularly one in the nature of writ of Mandamus declaring the action of the 2nd respondent in issuing the proceedings No.AP/21576/7A/SRO/GNT/ COMM.III/2 to 4/1155, dt. 29.9.2004 Under Sec. 7 A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, directing the petitioners to pay an amount of Rs. 2,38,964.85 Ps., with interest @ 12% per annum is illegal, arbitrary, highhanded, violative of principles of natural justice and also violative of provisions of Employees Provident Funds and Miscellaneous Provisions Act, 1952, and also declare that all the consequential proceedings issued demand the arrears of Provident Fund from the petitioners is also bad in law and unsustainable and consequently direct the respondent not to insist the petitioners for payment of the arrears of Provident Fund ad demanded under Proceedings No. AP/21576/7A/SRO/GNT/ COMM.III/2 to 4/1155, dt. 29.9.2004.

Counsel for the Petitioners: MR.Y.V.RAVI PRASAD

Counsel for the Respondent Nos.1 to 3: MR.R.N.REDDY

The Court at the stage of admission made the following :

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ORDER :

This writ petition is filed aggrieved by the action of the second respondent- Assistant Provident Fund Commissioner in issuing the impugned proceedings dated 29.09.2004 passed under Section 7 A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, (for short 'the Act').

2. Against the impugned order, an efficacious alternative remedy of appeal is provided under Section 7 (1) of the Act. Without exhausting the said alternative remedy available under the statute, the petitioners cannot maintain the writ petition.

3. The writ petition is accordingly disposed of granting leave and liberty to the petitioners to work out the remedy of appeal available under Section 7 (1) of the Act against the impugned order dated 29.09.2004 passed under Section 7 A of the Act, within a period of four weeks from today. If any appeal is preferred within the time specified above, the same shall be considered by the Appellate Authority and appropriate orders be passed in accordance with law. Pending such appeal, there shall be stay of further proceedings in furtherance of the order dated 29.09.2004 including the notice dated 17.01.2005 subject to the condition that the petitioners deposit 50% of the amount demanded under the proceedings dated 29.09.2004 within a period of six weeks from today.

4. The writ petition is accordingly disposed of. No costs.

G.ROHINI, J.

Dated: 29th March, 2005.

Note:

Issue C.C. in two days.

B/O

CS

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Regional Provident Fund Commissioner, Sub Regional

Officer, 3rd Lane, Krishna Nagar, Guntur District.

2. The Assistant Provident Fund Commissioner, Sub Regional

Office, Guntur.

3. The Enforcement Officer, Employment Provident Fund

Organisation, Ongole, Prakasam District.

4. 2 CD copies

*Form-NIC-OGS/WP{**JGK**}*

